



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/164,287	10/01/98	KAWANISHI	S 19036/35043

QM12/0110

NATE F SCARPELLI
MARSHALL O TOOLE GERSTEIN MURRAY
AND BORUN 6300 SEARS TOWER
233 SOUTH WACKER DRIVE
CHICAGO IL 60606-6402

EXAMINER

LIN, J

ART UNIT

PAPER NUMBER

3737

7

DATE MAILED:

01/10/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/164,287

Applicant(s)

Kawanishi et al.

Examiner

Jeoyuh Lin

Group Art Unit

3737



☒ Responsive to communication(s) filed on Nov 23, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-6 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-6 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 5

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 3737

DETAILED ACTION

Claim Objections

Claims 1-6 are objected to because of the following informalities:

In claim 1, line 26, "the" should be placed in between "of" and "fingers".

In claim 2, line 2, "the" between " wherein" and "one" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase, "one of faces of the card type" is unclear as to the number of faces a card might have. Specific declaration of the number of a faces a card might have, such as "a card type comprising of at least two or more faces", or "a card type comprising of at least a first face and a second face", (claim 3, line 3) is suggested.

Art Unit: 3737

2. Claims 3-5 recite the limitation "the other (end) face of the card".

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

1. Claims 1 and 2 are rejected under 35 U.S.C. 102 (b) as being clearly anticipated by Masuo (pat. #5,579,782).

2. Claims 1 and 2 are rejected under 35 U.S.C. 102 (e) as being clearly anticipated by Masuo et al. (pat. #5,817,031).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 3737

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki et al. (pat. # 4,949,727), and in view of Masuo et al. (pat. #5,817,031).

Yamazaki discloses a card-shaped fat determining device using body impedance measurements inclusive of two electrode sets (column 2, lines 56-64), a data input means (column 1, lines 53-55), and a calculation means (column 1, lines 56-60). However, the device does not include two electrode pairs on the card-shaped device for finger contact. Masuo et al. teaches a fat determining device with a first current path forming electrode near a first measuring electrode and a second current path forming electrode near a second measuring electrode, of which each pair is located on the respective left and right grips on the device. (column 5, lines 15-20 and lines 55-60). Furthermore, the electrodes are positioned on the hand grips such that one of the fingers on each hand, such as the thumb, would be in contact with the current forming electrode, while the other fingers would be in contact with the measuring electrode. It would have been obvious to one having ordinary skill in the art to incorporate the two pairs of electrodes taught by Masuo et al. into the device taught by Yamazaki et al. to provide an extra body impedance data input into the calculating means to further assure a more accurate measurement of the body fat. As for the positioning of these pairs of electrodes, it would have been a matter of design choice on the part of the inventor to position them in front or back faces of the card shaped device to make the device easier to hold while in use.

Art Unit: 3737

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Kelly ('862) discloses a body fat measurement device that measures body impedance, has a data input means, a calculating means, and a first and second electrode pairs, inclusive of a current path forming electrode and a measuring electrode in each pair. However, the electrodes are applied to one of the patient's hands and feet, not both hands, and the electrodes are not located on the device.

2. Gallup et al. ('141) discloses a body composition analyzer inclusive of a data input means, a calculating means, and the attachment of a number of electrode pairs on the hand and feet of the body. However, the device does not disclose the application of the electrodes on both hands of the subject, or the location of the electrodes on the surface of the device.

3. Cha et al. ('667) discloses a body composition analyzer that includes a body impedance determination means using paired electrodes and a calculating means. However, the device does not have a data input means, and the electrodes do not come in contact with one's fingers.

Furthermore, the electrodes are not located on the surface of the device itself.

4. Sato et al. ('351) discloses an apparatus for measuring body fat by measuring the impedance of the body inclusive of a data input means, a calculating means and usage of electrode pairs.

However, the electrodes come in contact with the subject's feet only, not hands.

Art Unit: 3737

5. Sato et al. ('176) discloses an apparatus for measuring body fat by measuring the impedance of the body inclusive of a data input means, a calculating means and usage of electrode pairs.

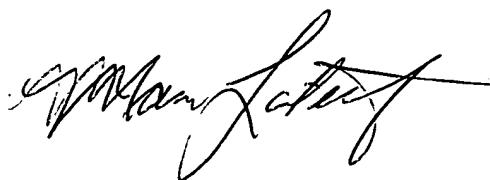
However, the electrodes come in contact with the subject's feet only, not hands.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeoyuh Lin whose telephone number is (703) 306-5990. The examiner can normally be reached on Monday-Friday from 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Marvin Lateef, can be reached at (703) 308-3256. The fax number for this Group is (703) 308-0758.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed the Group receptionist whose telephone number is (703) 308-0858.

JYL



Marvin M. Lateef
Supervisory Patent Examiner
Group 3700